

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ROLAND MA,

11 v.
12 Plaintiff,

13 UNIVERSITY OF SOUTHERN
14 CALIFORNIA,

15 Defendant.

16 CASE NO. C18-1778-JCC

17 ORDER

18 This matter comes before the Court on Plaintiff's motion to appoint counsel (Dkt. No.
19 11), "emergency" motion to dismiss a party (Dkt. No. 17), motion to strike (Dkt. No. 27), and
20 motion to seal (Dkt. No. 23). Plaintiff, proceeding *pro se*, filed this lawsuit alleging that
21 Defendant discriminated and retaliated against him in violation of federal law. (*See generally*
22 Dkt. No. 10.) On December 18, 2018, the Hon. Mary Alice Theiler U.S. Magistrate Judge
23 granted Plaintiff's motion to *proceed in forma pauperis*. (Dkt. No. 9.) Plaintiff subsequently filed
24 the above motions, which the Court resolves as follows:

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- 26 • Plaintiff's motion to appoint counsel (Dkt. No. 11) is DENIED. In civil cases, the
decision to appoint *pro bono* counsel rests with "the sound discretion of the trial court and is
granted only in exceptional circumstances." *Agyeman v. Corrs. Corp. of Am.*, 390 F.3d 1101,
1103 (9th Cir. 2004). "A finding of exceptional circumstances requires an evaluation of both the

1 likelihood of success on the merits [and] the ability of the petitioner to articulate his claims pro
2 se in light of the complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328,
3 1331 (9th Cir. 1986) (alteration in original) (internal quotation marks omitted) (quoting
4 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). Whatever the merits of Plaintiff’s claims,
5 it appears he will be able to litigate his case without the aid of counsel. A review of Plaintiff’s
6 complaint reveals that his claims are not overly complex, and that Plaintiff is intimately familiar
7 with the facts and legal issues underlying his claims. (*See generally* Dkt. No. 10.) Moreover,
8 Plaintiff has already filed numerous motions and pleadings in this case, further demonstrating
9 that he is capable of representing himself. (*See* Dkt. Nos. 4, 10, 17, 23, 27.)

10 • Plaintiff’s “emergency” motion to dismiss a party (Dkt. No. 17) is DENIED. In his
11 motion, Plaintiff asks the Court to order Defendant to show cause why it “must hire” one of its
12 attorneys of record, AnneMarie Hoovler. (*Id.* at 1.) The Court construes Plaintiff’s motion as
13 requesting the Court to force Ms. Hoovler to recuse herself from this case. Plaintiff’s request
14 appears to arise from the fact that Ms. Hoovler previously obtained a civil protection order
15 against him in King County District Court because of his alleged “inappropriate behavior” in the
16 underlying dispute against Defendant. (*See id.*; Dkt. No. 29.)

17 Plaintiff has not presented a factual or legal basis that would preclude Ms. Hoovler from
18 acting as Defendant’s attorney of record in this case. Litigating this case will not cause Plaintiff
19 to violate the protection order because he will not be required to have direct or indirect contact
20 with Ms. Hoovler. Indeed, the relevant protection order specifically instructs Defendant to
21 communicate with Ms. Hoovler’s colleague, Michael Jaeger, who has filed a notice of
22 appearance in this case. (*See* Dkt. Nos. 7-2, 12.) Therefore, Plaintiff can communicate about this
23 litigation with Mr. Jaeger without violating the protection order.

24 • Plaintiff’s motion to strike (Dkt. No. 27) is DENIED. Plaintiff asks the Court to strike a
25 declaration (Dkt. No. 7) and three attached exhibits (Dkt. Nos. 7-1–7-3) filed by Defendant
26 because they have “been forged.” (Dkt. No. 27 at 1.) The exhibits at issue are a copy of a

1 praecipe previously filed by Plaintiff asking the Court to exclude Ms. Hoovler from acting as
2 Defendant's attorney (Dkt. No. 7-1); a copy of the protection order obtained by Ms. Hoovler in
3 King County District Court against Plaintiff (Dkt. No. 7-2); and copies of a King County District
4 Court order finding Plaintiff to be a vexatious litigant, and denying Plaintiff's motion for a anti-
5 harassment order against two of Defendant's employees (Dkt. No. 7-3).

6 A district court "may strike from a pleading an insufficient defense or any redundant,
7 immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). "The function of a 12(f)
8 motion to strike is to avoid the expenditure of time and money that must arise from litigating
9 spurious issues by dispensing with those issues prior to trial . . ." *Fantasy, Inc. v. Fogerty*, 984
10 F.2d 1524, 1527 (9th Cir. 1993) (quotation marks, citation, and first alteration omitted), *rev'd on*
11 *other grounds* by *Fogerty v. Fantasy, Inc.*, 510 U.S. 517 (1994). None of the documents Plaintiff
12 seeks to strike meet the Rule 12(f) standard. The declaration itself was filed in response to
13 Plaintiff filing a praecipe requesting the Court to exclude Ms. Hoovler from representing
14 Defendant in this case.¹ (See Dkt. Nos. 7, 8.) The exhibits provide relevant context for the Court
15 to understand and rule on Plaintiff's request. *See supra* page 2. Contrary to Plaintiff's assertion,
16 the documents do not appear to be forged, and Defendant filed them after Ms. Hoovler filed a
17 notice of appearance in this case.

18 • Plaintiff's motion to seal (Dkt. No. 23) is DENIED. Plaintiff asks the Court to seal
19 individual pages from two documents he filed (Dkt. Nos. 21, 22) because they contain his home
20 address. (Dkt. No. 23.) Plaintiff does not provide a sufficient basis to maintain these documents
21 under seal. *See* W.D. Wash. Local Civ. R. 5(g). Moreover, the information Plaintiff wishes to
22 redact, his home address, is part of the public case docket, and is not the type of information that
23 is required to be redacted. *See* W.D. Wash. Local Civ. R. 5.2. Therefore, the Clerk is

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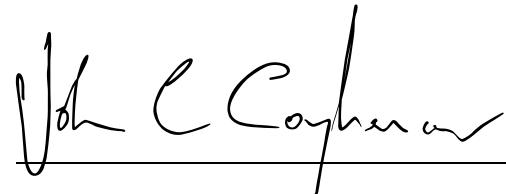
¹ Although labeled a "praecipe," Plaintiff's request was really a motion to exclude Ms.
26 Hoovler from this lawsuit, which he eventually filed under a separate docket number. (See Dkt.
No. 17) ("Emergency Motion to Dismiss Party AnneMarie Hoovler").

1 DIRECTED to unseal Docket Numbers 21 and 22.

2 For the foregoing reasons, Plaintiff's motion to appoint counsel (Dkt. No. 11),
3 "emergency" motion to dismiss a party (Dkt. No. 17), motion to strike (Dkt. No. 27), and motion
4 to seal (Dkt. No. 23) are DENIED. The Clerk is DIRECTED to unseal Docket Numbers 21 and
5 22. The Clerk is further DIRECTED to mail a copy of this order to Plaintiff.

6 DATED this 4th day of January 2019.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE